

Ethics Training for:

State Officers;

State Employees;

Special State Appointees; and

Persons who have a business
relationship with a state agency.

Course Outline

- Duties of the Ethics Commission
- Duties of the Inspector General with regard to Ethics
- Duties of Agencies
- Explanation of Ethics Laws and Rules

Indiana State Ethics Commission

Office of the Inspector General

These two offices work together to promote the ethical conduct of state officers, employees, special state appointees, and persons who have a business relationship with a state agency.

- Indiana State Ethics Commission: Created in 1974, the Commission is made up of five members appointed by the Governor.
- Office of the Inspector General: Created in 2005, the Inspector General receives and investigates alleged ethics violations.

Duties of the Ethics Commission

- Issues written advisory opinions interpreting ethics laws and rules.
- Holds public hearings to determine if an ethics violation has occurred.

Duties of Inspector General Regarding Ethics

- Responsible for writing a code of ethics that outlines ethics rules in addition to state ethics laws.
- Receives and investigates complaints alleging a violation of the code of ethics.
- Files ethics complaints with the Ethics Commission and represents the State in public hearings before the Commission.
- Ensures that state officers, employees, special state appointees, and persons with a business relationship with an agency are trained in the code of ethics.
- Provides informal advisory opinions interpreting ethics laws and rules.

Duties of Agencies

Training requirements, 42 IAC 1-4-1

- All state officers, employees, and special state appointees shall be properly trained in the code of ethics. All persons who have a business relationship with a state agency are obligated to abide by the code of ethics.
- Each agency's appointing authority shall do the following:
 - (1) Require all new employees and special state appointees to participate in ethics training within six (6) weeks of the employee's starting employment and the special state appointee's appointment date with the agency;
 - (2) Require all employees and special state appointees to participate in ethics training at least every two (2) years during an employee's and special state appointee's tenure with the agency; and
 - (3) Maintain documentation to demonstrate an employee's and special state appointee's compliance with this rule.

Duties of Appointing Authority

- The appointing authority is the chief administrative officer for each agency and is responsible for designating an agency Ethics Officer.
- May implement agency ethics rules in addition to the those in the code of ethics. Agency rules must be at least as strict as the rules in the code of ethics and may not be contrary to any rule in the code.
- Has authority to grant waivers related to the gift rule and the post-employment and outside employment statutes.

Duties of Agency Ethics Officer

- Gives ethics advice to the appointing authority and agency employees.
- Has authority to approve gift rule waivers and outside employment (moonlighting) requests.
- Assists managers and supervisors in implementing ethics training for the agency.

Ethics Law and Rules

The following laws and rules apply to state officers, employees, special state appointees and persons having a business relationship with a state agency.

- Indiana Code 4-2-6, Ethics and Conflicts of Interest
- Indiana Code 4-2-7, Inspector General
- Indiana Administrative Code 40, Code of Conduct for State Business
- Indiana Administrative Code 42, Indiana Code of Ethics
- Title 35, This is a criminal statute that may apply in cases of conflicts of interest.
- Any agency ethics policy that is not contrary to the above law and rules and is at least as strict as the code of ethics.

Ethics Goals

Duties should be carried out impartially.

Decisions and policy should not be made outside of proper channels of state government.

Public office should not be used for private gain.

Actions, transactions, or involvements should not be performed or engaged in which have the potential to become a conflict of interest.

Overview of the Code of Ethics

Gifts; travel expenses; waivers
Donor restrictions
Honoraria
Political activity
Outside Employment (Moonlighting)
Conflicts of interest; decisions and voting
Conflicts of interest; contracts
Additional compensation
Bribery
Benefiting from confidential information
Divulging confidential information
Use of state property
Ghost employment
Post-employment restrictions
Nepotism

The Gift Rule, 42 IAC 1-5-1

A state employee or special state appointee, or the spouse or unemancipated child of a state employee or special state appointee, shall not knowingly solicit, accept, or receive any of the following: a gift, favor, service, entertainment, food, drink, travel expenses, or registration fees from a person who has a business relationship with the employee's or special state appointee's agency or is seeking to influence an action by the employee or special state appointee in his or her official capacity.

Are there exceptions or waivers to the Gift Rule?

- There are limited exceptions to the gift rule. For example, a state employee or special state appointee may accept nominal refreshments that may be offered to them while conducting official state business at the workplace of a person who has a business relationship with their agency. (e.g. coffee and donuts)
- The prohibitions under the gift rule may be waived by the agency Appointing Authority or agency Ethics Officer in certain cases. Waivers must be in writing, filed with the Ethics Commission and explain why waiver of the rule is consistent with the public interest.

Donor Restrictions, 42 IAC 1-5-2

Persons having a business relationship with an agency may not provide any gifts, meals, favors, services, entertainment, food, drink, travel expenses, or registration fees to a state employee or special state appointee who would be prohibited from accepting any of these items under the Gift Rule.

Honoraria, 42 IAC 1-5-3

An employee shall not personally accept an honorarium for any activity that may be considered part of the state employee's official duties. However, a state employee may accept an honorarium on behalf of the state. The employee accepting the honorarium shall remit to the treasurer of state any amount received. The treasurer of state shall quietus such funds into the general fund. An employee may personally accept an honorarium for activities not done in connection with the employee's official duties and that are prepared on the employee's own time and without the use of state resources. However, in no case may an employee accept an honorarium from an executive branch lobbyist or a person who has a business relationship or seeks to influence an official action with the employee's agency.

Political Activity, 42 IAC 1-5-4

- A state employee or special state appointee shall not engage in political activity including solicitation of political contributions from:
 - another employee or special state appointee; or
 - any other person when on duty or acting in an official capacity.

This section does not prohibit a state employee or special state appointee from engaging in such activity when not on duty.

- A state employee or special state appointee shall not solicit political contributions at any time from:
 - persons whom the employee or special state appointee knows to have a business relationship with the employee's or the special state appointee's agency; or
 - state employees or special state appointees directly supervised by the employee or the special state appointee.
- The appointing authority of an agency and all employees or special state appointees with purchasing or procurement authority on behalf of the state shall not solicit political contributions on behalf of any candidate for public office, unless that individual is a candidate for public office himself or herself.

Nepotism, 42 IAC 1-5-5 and IC 4-15-7-1

There is a general prohibition against employing or directly supervising certain relatives, including the following: father, mother, brother, sister, uncle, aunt, a husband or wife, son or daughter, son-in-law or daughter-in-law, niece or nephew.

There is an exception to this law in cases where the person has been employed in the same position or office for at least twelve (12) consecutive months before the their relative has been appointed as a board member or the head of an office. The nepotism law also does not apply to the authority of the board of trustees of a state educational institution to employ any person considered necessary under IC 20-12-1-4.

Use of State Property, 42 IAC 1-5-12

A state officer, employee or special state appointee shall not make use of state materials, funds, property, personnel, facilities, or equipment for any purpose other than for official state business unless the use is expressly permitted by general written agency, departmental, or institutional policy or regulation, considering the cost and the benefit by such use.

Ghost Employment, 42 IAC 1-5-13

A state officer, employee or special state appointee shall not engage in, or direct others to engage in work other than the performance of official duties during working hours, except as permitted by general written agency, departmental, or institutional policy or regulation.

Additional Compensation, 42 IAC 1-5-8

A state officer, employee, or special state appointee shall not solicit or accept compensation for the performance of official duties other than provided for by law.

Bribery, 42 IAC 1-5-9

A state officer, employee, or special state appointee shall not pay or offer to pay any compensation for the performance of a state officer's, employee's, or special state appointee's official duties except as permitted by law.

Confidential Information Rules

Benefiting from confidential information, 42 IAC 1-5-10. A state officer, employee, or special state appointee shall not benefit from, or permit any other person to benefit from, information of a confidential nature except as permitted or required by law.

Divulging confidential information, 42 IAC 1-5-11. A state officer, employee, or special state appointee shall not divulge information of a confidential nature except as permitted by law.

Fact Sensitive Ethics Laws

- Outside Employment
(Moonlighting)
- Post-Employment
- Conflicts of Interest

Outside Employment, IC 4-2-6-5.5 and 42 IAC 1-5-5

Moonlighting refers to an employee's or special state appointee's outside employment. Such employment may or may not be compatible with agency rules or the full and proper discharge of a person's public duties and responsibilities.

Outside Employment, IC 4-2-6-5.5 and 42 IAC 1-5-5

In general, a state officer, employee, or special state appointee is prohibited from accepting outside employment that:

- (1) Would involve compensation of substantial value if the responsibilities of that employment are inherently incompatible with the responsibilities of public office or would require the employee to recuse themselves from matters so central or critical to the performance of their official duties that their ability to perform official duties would be materially impaired;
- (2) Would require the state employee to disclose confidential information that was gained in the course of state employment; or

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Outside Employment

(3) Would involve the state employee using their official position to secure unwarranted privileges or exemptions that are of substantial value and not properly available to similarly situated individuals.

A state officer, employee, or special state appointee may request a written advisory opinion from their appointing authority, agency ethics officer, or the Ethics Commission granting approval of outside employment.

Post-Employment, IC 4-2-6-11

A former state officer, employee, or special state appointee must generally wait 365 days before accepting employment or receiving compensation:

- as a lobbyist.
- from an employer with whom you “negotiated or administered” a contract on behalf of the state or an agency.
- from an employer over whom you made a regulatory or licensing decision.
- from representing or assisting an employer on a “particular matter,” even if no compensation is received.

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Post-Employment

A former state officer, employee, or special state appointee may not accept employment or compensation from an employer if:

- the circumstances of the employment or compensation offered would lead a reasonable person to believe the offer was for the purpose of influencing you in the performance of your official duties.

What is considered a “particular matter”?

- an application,
- a business transaction,
- a claim,
- a contract,
- a determination,
- an enforcement proceeding,
- an investigation,
- a judicial proceeding,
- a lawsuit,
- a license,
- an economic development project, or
- a public works project.

How long will a restriction last?

Generally, a post-employment restriction lasts for 365 days from the date you cease state employment, but may be longer in cases where a “particular matter” is involved. The length of the “particular matter” restriction lasts for the life of the matter.

Who reviews post-employment activity?

- You may obtain a written advisory opinion from the Ethics Commission.
- If a post-employment restriction is found to apply, a person's appointing authority may waive some restrictions on a case-by-case basis when consistent with the public interest.

Conflict of Economic Interest, IC 4-2-6-9

A state officer, an employee, or a special state appointee may not participate in any decision or vote if the state officer, employee, or special state appointee has knowledge that any of the following has a financial interest in the outcome of the matter :

- (1) The state officer, employee or special state appointee
- (2) A member of the immediate family, of the state officer, employee or special state appointee.

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Conflict of Economic Interest

(3) A business organization in which the state officer, employee or special state appointee is serving as an officer, a director, a trustee, a partner or an employee

(4) Any person or organization with whom the state officer, employee or special state appointee employee is negotiating or has an arrangement concerning prospective employment.

What if I have a conflict of interest?

- A state officer, an employee, or a special state appointee who identifies a potential conflict of interest must notify their appointing authority and seek an advisory opinion from the Ethics Commission.
- The Ethics Commission may recommend ways to remedy any conflict of interest. For example, the matter giving rise to the conflict may be assigned to another person, or measures may be put in place to screen the person from the conflict.

Prohibition against Financial Interest in a Contract, IC 4-2-6-10.5

- A state officer, employee, or special state appointee may generally not knowingly have a financial interest in a contract made by any agency.
- This prohibition may not apply in certain cases. For example, where the contract is made after public notice or after competitive bidding. Request an advisory opinion from the Ethics Commission to find out if any prohibition may apply.
- Profiteering from Public Service is a criminal offense under IC 35-44-1-7. This criminal statute may apply to persons who obtain a pecuniary interest in a contract with an agency within one year after separation from employment with the agency.

How do I get advice from the Ethics Commission?

- Any current or former state officer, employee, special state appointee, or person who has or had a business relationship with an agency may submit a request for an advisory opinion.
- Submit your request for advice through the Ethics Commission website by visiting [<http://www.in.gov/ethics/>](http://www.in.gov/ethics/) or you may send your question in writing to the following address:

Indiana State Ethics Commission
150 West Market St., Room 414
Indianapolis, IN 46204

What happens if an ethics violation occurs?

The Ethics Commission may hold a public hearing to determine if a violation has occurred, or the Commission may reach an agreed settlement with the violator. The Commission may take any of the following actions:

- (1) Impose a civil penalty not to exceed three times the value of any benefit received from the violation.
- (2) Cancel a contract.
- (3) Bar a person from entering into a contract with an agency or a state officer for a period specified by the Commission.
- (4) Order restitution or disgorgement.

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Possible Sanctions

- (5) Reprimand, suspend, or terminate an employee or a special state appointee.
- (6) Reprimand or recommend the impeachment of a state officer
- (7) Bar a person from future state employment as an employee or future appointment as a special state appointee.
- (8) Revoke a license or permit issued by an agency.
- (9) Bar a person from obtaining a license or permit issued by an agency.
- (10) Revoke the registration of a person registered as a lobbyist under IC 4-2-8.
- (11) Bar a person from future lobbying activity with a state officer or agency.

Are there any safeguards for those who report ethics violations?

Indiana Code 4-2-6-13 prohibits a state officer, employee or special state appointee from retaliating or threatening to retaliate against a person who does any of the following:

- Files a complaint with the Ethics Commission or the Inspector General.
- Provides information to the Ethics Commission or the Inspector General.
- Testifies at an Ethics Commission proceeding.

A state officer, employee or a special state appointee may take appropriate action against an employee who does not act in good faith in reporting a violation, or who knowingly or recklessly provides false information or testimony to the Commission.

Remember, public service is a public trust. The state ethics rules set the minimum standards of conduct. Every state officer, employee, and special state appointee should strive to set the highest bar for ethical conduct in the performance of their duties.

Resources

- Ind. Code 4-2- 6, Ind. Code 4-2-7, and 40 and 42 Ind. Administrative Code
- Ethics Newsletter
- Advisory Opinions posted on the Ethics Commission's website at:

<http://www.in.gov/ethics/>
- Agency Ethics Officers